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HARRISBURG, PA

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UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

GREENE/GUILFORD ENVIRONMENTAL
ASSOCIATION, a non-profit
Corporation incorporated under the
laws of the Commonwealth of
Pennsylvania, CITIZENS FOR PLANNED
COMMUNITY GROWTH, an unincorporated
association organized under the
laws of the Commonwealth of
Pennsylvania, PAUL B. AMBROSE,
JOHN G. ENDERS, CHARLES F.
RAHAUSER, BETSY RAHAUSER, DOUGLAS
A. WARNOCK, U.X. VAGNERINI, THOMAS
W. BUNDY, STEPHEN P. BUCHER,
ROGER J. ROBERTSON, JAMES A.
STRITE, JR., DAVID A. GUTHRIE,
Plaintiffs,

v.

KEN WYKLE, Administrator, Federal
Highway Administration, ROBERT
GATZ, Federal Highway
Administration,
Defendants,

and

BRADLEY L. MALLORY, Secretary for
the Department of Transportation,
Commonwealth of Pennsylvania,
Intervenor

CIVIL ACTION NO.
1:CV-01-0910

(Judge Rambo)

FEDERAL DEFENDANTS' AND INTERVENOR'S JOINT MOTION
TO STRIKE PLAINTIFFS' ANSWER IN OPPOSITION TO JOINT
MOTION FOR SUMMARY JUDGMENT AND MEMORANDUM OF LAW
IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Defendants Ken Wykle and Robert Gatz and intervenor Bradley L. Mallory, by and through their undersigned counsel, hereby move this Court to strike two documents, Plaintiffs' Answer in Opposition to Joint Motion for Summary Judgment ("opposition brief") and Plaintiffs' Memorandum of Law in Support of Plaintiffs' Motion for Summary Judgment ("summary judgment brief"), and in support thereof, state as follows:

Procedural Background

1. On June 7, 2002, defendants and intervenor filed a joint motion for summary judgment.

2. On or about June 12, 2002, plaintiffs filed a motion to increase the page limit of their summary judgment brief from fifteen (15) pages to 149 pages.

3. On June 17, 2002, this Court ordered that plaintiffs may file a summary judgment brief "not to exceed FIFTY pages".

4. Plaintiffs filed a motion to increase the page limit of their opposition brief (captioned "Plaintiffs' Answer in Opposition to Joint Motion for Summary Judgment") from fifteen (15) pages, as permitted by the local rules, to forty (40) pages.

5. On July 15, 2002, this Court granted plaintiffs' motion and ordered the length of the opposition brief "not to exceed forty (40) pages".

6. On July 25, 2002, plaintiffs filed Plaintiffs' Motion for Summary Judgment, Plaintiffs' Statement of Undisputed Material Facts in Support of their Motion for Summary Judgment, plaintiffs' summary judgment brief, plaintiffs' opposition brief, and Plaintiffs' Answer to Agencies' Joint Statement of Undisputed Material Facts.

7. Rule 7.8(a) of the local rules of the United States Court for the Middle District of Pennsylvania states: "No brief may incorporate by reference all or any portion of any other brief."

Opposition Brief

8. Plaintiffs' opposition brief is forty-two (42) pages in length.

9. On pages 1, 2, and 31 of the opposition brief, plaintiffs refer this Court to sections of another document, i.e., their summary judgment brief, in violation of local rule 7.8.

10. In the argument section alone, plaintiffs referenced approximately forty (40) pages of material from their summary judgment brief in violation of local rule 7.8.

11. Plaintiffs also referenced the Counter-History of the Case, Counter-Statement of Facts, and Counter-Statement of Questions involved from their memorandum of law in support of their motion for summary judgment, which consists of six (6) additional pages in violation of local rule 7.8.

12. When the pages incorporated by reference are added to the brief, plaintiffs' opposition brief totals approximately eighty-eight (88) pages, which is in violation of this Court's July 15, 2002 order limiting the length of the opposition brief to forty (40) pages.

13. Furthermore, the footnotes contained in the opposition brief are a smaller font size than the font size used in the body of the brief in violation of Rule 5.1 of the local rules of the United States Court for the Middle District of Pennsylvania.

Summary Judgment Brief

14. On pages 35 through 38 of the summary judgment brief, plaintiffs refer the Court to sections of their opposition brief.

15. On pages 35 through 38 of their summary judgment brief, plaintiffs referenced pages 2 through 41 of their

opposition brief (approximately thirty-nine (39) pages) in violation of local rule 7.8.

16. When the pages incorporated by reference are added to the brief, plaintiffs' summary judgment brief totals approximately eighty-nine (89) pages, which is in violation of this Court's June 17, 2002 order limiting the length of the summary judgment brief to fifty (50) pages.

17. Again, the footnotes contained in plaintiffs' summary judgment brief were a smaller font size than the font size used in the body of the brief, in violation of Rule 5.1 of the local rules of the United States Court for the Middle District of Pennsylvania.

18. Normally, defendants and intervenor would not object to going over the page limit by two pages, referencing the statement of facts in their main brief, or using a smaller font size in the footnotes; however, the cumulative effect of these violations is prejudicial to defendants and intervenor who have endeavored to file documents in conformance with the local rules.

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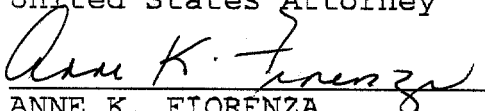
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WHEREFORE, defendants and intervenor respectfully request that this Court strike Plaintiffs' Answer in Opposition to Joint Motion for Summary Judgment (opposition brief) and Plaintiffs' Memorandum of Law in Support of Plaintiffs' Motion for Summary Judgment.

Respectfully submitted,

THOMAS A. MARINO
United States Attorney

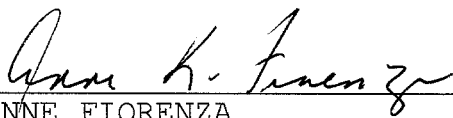

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Date: July 31, 2002

CERTIFICATE OF NON-CONCURRENCE

I, Anne Fiorenza, hereby certify that on July 31, 2002
I spoke with Thomas A. Linzey, Esquire, counsel for
plaintiffs. Mr. Linzey does not concur in this motion.



ANNE FIORENZA
Assistant United States Attorney

Date: July 31, 2002

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee in the United States Attorney's office and is a person of such age and discretion to be competent to serve papers.

On this 31 day of July, 2002, she served a copy of the foregoing document by placing said copy in a postpaid envelope addressed to the person hereinafter named, at the place and address stated below, which is the last known address, and by deposition said envelope and contents in the United States Mail at Harrisburg, Pennsylvania to:

Thomas Alan Linzey, Esquire
Community Environmental Legal Defense Fund
2859 Scotland Road
Chambersburg, PA 17201


Chyenna Gowdy